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[Ed. Note.—For other cases, see Partition, Cent. Dig. §§ 26-32; Dec. Dig. § 9.\* 10 Va.-W. Va. Enc. Dig. 771-2.]

**2. Partition (§ 78\*)—Mode of Partition—Sale for Division of Proceeds.**—A mother, who with a son owned a tract of land as tenants in common, died leaving six children as her heirs at law. The land could be equally divided into two parts without damage or disadvantage to the value of either interest, but was not susceptible of division among the mother's heirs. Held, that it was error to decree a sale of the whole tract for division, and that one half of the tract should be allotted to the son and the other half sold for division among the heirs, including the son as one of the heirs.

[Ed. Note.—For other cases, see Partition, Cent. Dig. §§ 265-273; Dec. Dig. § 78.\* 10 Va.-W. Va. Enc. Dig. 791.]

**3. Partition (§ 78\*)—Mode of Division—Allotting Improvements.**—Where a son owned a tract of land as tenant in common with his mother, and took possession of the western portion of the land with his mother's consent, built upon it, and otherwise improved it and made his home thereon, upon a partition of the land between such son and the heirs of the mother, the part upon which the improvements had been made should be allotted to the son.

[Ed. Note.—For other cases, see Partition, Cent. Dig. §§ 265-273; Dec. Dig. § 78.\* 10 Va.-W. Va. Enc. Dig. 784, 788.]

Appeal from Circuit Court, Bedford County.

Suit for partition by one Dennis and others against other parties of the same name. From the decree, certain parties appeal. Reversed and remanded.

*Hunter Miller* and *S. S. Lambeth, Jr.*, both of Bedford City, for appellants.

*R. W. Withers*, of Lexington, and *S. V. Kemp*, of Lynchburg, for appellees.

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SHELTON *v.* TAYLOR'S COMMITTEE et al.

Sept. 7, 1914.

[82 S. E. 698.]

**1. Insane Persons (§ 91\*)—Action against Committee—Jurisdiction—Foreign Attachment.**—Where a nonresident was appointed and qualified as the committee of an insane person in Virginia and removed the lunatic to the committee's home in Washington, D. C., a bill in equity in the nature of a foreign attachment was maintainable against the committee in Virginia on a claim against the luna-

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

tic's estate, since the residence of the committee rather than that of the lunatic governed.

[Ed. Note.—For other cases, see *Insane Persons*, Cent. Dig. § 159; Dec. Dig. § 91.\* 7 Va.-W. Va. Enc. Dig. 796-7.]

**2. Insane Persons (§ 92\*)—Committee—Actions.**—Where a committee has been appointed for a lunatic, every suit respecting his person or estate must be by or against the committee.

[Ed. Note.—For other cases, see *Insane Persons*, Cent. Dig. § 163; Dec. Dig. § 92.\* 7 Va.-W. Va. Enc. Dig. 796-797.]

**3. Witnesses (§ 144\*)—Competency—Insane Persons.**—Where one who had since become insane was the other party to a contract with complainant, complainant was disqualified by the express terms of Code 1904, § 3346a, to testify in his own behalf with relation thereto.

[Ed. Note.—For other cases, see *Witnesses*, Cent. Dig. §§ 625-643; Dec. Dig. § 144.\* 13 Va.-W. Va. Enc. Dig. 953.]

**4. Insane Persons (§ 75\*)—Supplies—Provision by Volunteer.**—Where complainant furnished supplies to an insane person without any obligation, legal or moral, complainant was a mere volunteer, and could recover against the incompetent's estate only the actual amount of his expenditure, with interest.

[Ed. Note.—For other cases, see *Insane Person*, Cent. Dig. §§ 89, 128, 129; Dec. Dig. § 75.\* 7 Va.-W. Va. Enc. Dig. 693.]

Appeal from Circuit Court, Montgomery County.

Suit by Sidney Sheltman against Victoria A. Bell, as Committee of Margaret Taylor, and others. From a decree of dismissal without prejudice, complainant appeals. Affirmed as modified.

*W. B. Kegley*, of Wytheville, and *M. H. Tompkins*, of Cambria, for appellant.

*W. M. Pierce*, of Christiansburg, for appellees.

ROSE *v.* COMMONWEALTH.

Sept. 7, 1914.

[82 S. E. 699.]

**1. Indictment and Information (§ 147\*)—Counts—Demurrer.**—A general demurrer to an indictment containing more than one count must be overruled if there is one good count in the indictment.

[Ed. Note.—For other cases, see *Indictment and Information*, Cent. Dig. §§ 490-494; Dec. Dig. § 147.\* 7 Va.-W. Va. Enc. Dig. 499.]

**2. Criminal Law (§ 878\*)—Verdict—Counts.**—A verdict finding ac-

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.